MCO's risk score, reflecting the expected health care expenditures associated with its enrolled members relative to the applicable total Medicaid population.

b. To establish risk-adjusted rates, MLTC's actuary will analyze the risk profile of members enrolled in each MCO using a national risk-adjustment model specified by MLTC.

i. Each member will be assigned to risk categories based on his/her age, gender, and disease conditions. This information and the relative cost associated with each risk category will reflect the anticipated utilization of health care services relative to the overall population.

ii. The relative costs will be developed using State historical data from Medicaid FFS claims and MCO encounter data, as determined appropriate by MLTC's actuary.

c. Risk adjustment will be completed 60 calendar days after the end of each contract year and reviewed semi-annually. Risk adjustment may be completed more than semi-annually if MLTC determines it is warranted.

d. MLTC will provide the MCO with three months advance notice of any major revision to the risk-adjustment methodology. The MCO must provide any input regarding the proposed changes, if at all, within 14 days. MLTC will consider the feedback from the MCOs when making changes to the risk adjustment methodology.

9. Risk Corridor

a. Annual MCO profits or losses must not exceed 3% per year.

b. Profits and losses are calculated by MLTC's actuary as a percentage of the aggregate of all qualifying revenue by the MCO and related parties, including parent and subsidy companies and risk bearing partners under this contract.

c. The risk corridor calculation must be completed within nine months of the end of the contract year based on the formula below. These calculations ignore revenue taxes, non-operating income, and any forfeited hold-back. The earned hold-back from the prior year is not treated as income in the risk corridor calculation.

Risk corridor profit/loss = qualifying revenue
- MLR rebate
- Net qualified medical expenses calculated for the ~~MLR~~ risk corridor
- Total allowed administration calculated for the administrative cap.

d. If the risk corridor calculation referenced immediately above produces a profit above 3%, the MCO must ensure that the amount over 3% is deposited in the reinvestment account, as described in this section, within nine months of the end of each contract year.

e. The MCO must provide a full financial statement and additional data as requested to MLTC and its actuary to support the risk corridor calculation. MLTC will reimburse the Federal share of the forfeited funds to CMS. The remaining State share of the forfeited funds will be returned to the MCO for deposit back into the reinvestment distribution account.

f. If the risk corridor calculation produces a loss of more than 3%, MLTC will pay the MCO an amount equal to the loss above that amount.

g. There will be no risk corridor payment by either party if the risk corridor calculation produces an amount between a three percent gain and a three percent loss.

h. Regardless of the risk corridor calculation, the MCO is eligible to receive its earned hold-back.

10. MLTC Quality Performance Program

a. The MCO must participate in the MLTC quality performance program (QPP), effective as of contract start date. The MLTC QPP must be implemented in accordance with Neb. Rev. Stat.

§71-831 and any successor statutes. Neb. Rev. Stat. 71-831 is provided as Attachment 13 – Neb. Rev. Stat. 71-831.

b. Pursuant to Neb. Rev. Stat. §71-831, the MCO must hold back 1.5% of the aggregate of all income and revenue earned by the MCO and related parties under the contract in a separate account. The hold-back constitutes the maximum amount available to the MCO to earn via the quality performance program.

c. QPP measures for which the MCO is eligible to earn hold-back funds are included in Attachment 14 – Quality Performance Program Measures – Contract Year One.

d. The MCO must report its performance measures that affect the MCO's eligibility to earn hold-back funds monthly, quarterly, and annually.

e. Each year of the contract constitutes a performance year, beginning on the contract start date. MLTC will assess the MCO's performance based on the measures annually and notify the MCO of the amount of the earned hold-back and unearned (forfeited) hold-back. MLTC will make this determination within six (6) months after the end of each contract year.

f. All earned hold-back funds become the property of the MCO.

g. The MCO must deposit unearned (forfeited) hold-back funds into the reinvestment account to be forfeited to MLTC. MLTC will reimburse the Federal share of the forfeited funds to CMS. The remaining State share of the forfeited hold-back funds will be retained by MLTC.

h. No interest will be due to either party on hold-back funds retained by the MCO or returned to MLTC.

i. MLTC reserves the right to modify annually the measures and criteria for earning the hold-back funds. In the event MLTC modifies the measures or criteria, MLTC will provide the MCO 60 calendar days advance written notice. These measures will include operational or administrative measures that reflect MCO business processes and may lead to improved access to and quality of care, CMS Medicaid Adult and Child Core Measure sets, HEDIS measures, and MLTC-identified measures that represent opportunities for improvement as indicated by HERITAGE HEALTH historical performance.

j. Any earned hold-back will not be included in the MCO's income for the year nor considered part of the medical loss ratio (MLR) calculation.

11. State Performance Penalties

a. Pursuant to Neb. Rev. Stat. §71-831, 0.25% of the aggregate of all income and revenue earned by the MCO and related parties under the contract must be at risk as a penalty if the MCO fails to meet minimum performance metrics. MLTC will provide minimum performance metrics to the MCO prior to year two (2) of the contract.

b. The MCO must report its performance on the minimum performance metrics monthly, quarterly, and annually.

c. Each year of the contract constitutes a performance year, beginning on the contract start date. MLTC will assess annually the MCO's performance compared with the minimum performance metrics and notify the MCO of the amount of liquidated damages due to MLTC. MLTC will make this determination within six (6) months after the end of each contract year.

d. MLTC reserves the right to modify the minimum performance metrics and criteria for assessing liquidated damages annually. In the event MLTC modifies the metrics or criteria, MLTC will provide the MCO 60 calendar days advance written notice.

12. Administrative Cap

a. Per Neb. Rev. Stat. §71-831, 68-908, and 71-801 (2012), the MCO's administrative spending must not exceed 7%, except up to an additional 3% is allowed, if the additional amount is for the purpose of quality improvement and approved by MLTC.

b. The MCO's total administrative spending must not under any circumstance exceed 10%. The total allowable administrative expense rate is the lesser of 10% and the total of allowable QI and non-QI administrative expenses, less any related-party administrative margin.

c. With its quarterly financial report, the MCO must provide to MLTC a detailed accounting of administrative expenses, including allowable QI expense.

d. To ensure compliance with the State law, MLTC will calculate the administrative expense rate within nine months of the end of each contract year.

e. Hold-back funds, both earned and forfeited, are factored into the administrative cap calculation.

13. Medical Loss Ratio

The MCO must provide an annual Medical Loss Ratio (MLR) report to MLTC, in a form, manner, and pursuant to a timeline prescribed by MLTC. If the MLR (cost for health care benefits and services and specified quality expenditures) is less than 85%, the MCO must refund MLTC the difference. (See Attachment 15 – Medical Loss Ratio Requirements for the MLR calculation methodology and classification of costs.)

14. Reinvestment Accounts

a. Pursuant to Neb. Rev. Stat. §71-831, the MCO must provide for the reinvestment of profits in excess of the contracted amount, performance contingencies imposed by the department, and any unearned (forfeited) hold-back funds. To this end, the MCO must establish and manage two accounts:

- **i.** A hold-back account, for the purpose of holding funds listed in the QPP. Funds in this account include both the Federal and State share of cost in the State's Medicaid program.

- **ii.** A reinvestment account, for the purpose of holding funds pursuant to Neb. Rev. Stat. §71-831 after the federal share of cost has been returned to MLTC.

b. Both the holding and reinvestment distribution accounts must:

- **i.** Be separate from other accounts required by the contract, or that may be required by State or Federal law.

- **ii.** Have no risk-bearing investments.

- **iii.** Be created and operated in full compliance with the Nebraska Uniform Trust Code (Neb. Rev. Stat. §30-3801 to 30-38110).

c. The MCO must use funds in the reinvestment distribution account in accordance with Neb. Rev. Stat. §71-831 and any successor statutes.

d. The MCO must develop, with input from MLTC and its stakeholders, a plan for expenditure of funds in the reinvestment distribution account, for approval by MLTC. The MCO must submit a report to MLTC describing implementation of the plan and evaluating the impact of an approved plan within 90 calendar days of the end of each contract year.

e. The MCO must ensure that:

- **i.** The annual financial reporting package as describe in this section is submitted by the MCO within six (6) months of the end of each contract year.

- **ii.** Upon written approval of the annual financial reporting package by MLTC, the MCO must transfer to the State all funds held in the reinvestment holding account.